

106TH CONGRESS
2D SESSION

H. R. 5169

To reenact the United States Warehouse Act to require the licensing and inspection of warehouses and other structures used to store agricultural products, to provide for the issuance of receipts, including electronic receipts, for agricultural products stored or handled in licensed warehouses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2000

Mr. LAHOOD (for himself and Mr. GOODLATTE) introduced the following bill;
which was referred to the Committee on Agriculture

A BILL

To reenact the United States Warehouse Act to require the licensing and inspection of warehouses and other structures used to store agricultural products, to provide for the issuance of receipts, including electronic receipts, for agricultural products stored or handled in licensed warehouses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Warehouse Improve-
5 ment Act of 2000”.

1 **SEC. 2. STORAGE OF AGRICULTURAL PRODUCTS IN WARE-**
2 **HOUSES.**

3 The United States Warehouse Act (7 U.S.C. 241 et
4 seq.) is amended to read as follows:

5 **“SECTION 1. SHORT TITLE.**

6 “This Act may be cited as the ‘United States Ware-
7 house Act’.

8 **“SEC. 2. DEFINITIONS.**

9 “In this Act:

10 “(1) **AGRICULTURAL PRODUCT.**—The term ‘ag-
11 ricultural product’ means an agricultural commodity,
12 as determined by the Secretary, including a proc-
13 essed product of an agricultural commodity.

14 “(2) **APPROVAL.**—The term ‘approval’ means
15 the consent provided by the Secretary for a person
16 to engage in an activity authorized by this Act.

17 “(3) **DEPARTMENT.**—The term ‘Department’
18 means the Department of Agriculture.

19 “(4) **ELECTRONIC DOCUMENT.**—The term ‘elec-
20 tronic document’ means a document that is gen-
21 erated, sent, received, or stored by electronic, opti-
22 cal, or similar means, including electronic data inter-
23 change, electronic mail, telegram, telex, or telecopy.

24 “(5) **ELECTRONIC RECEIPT.**—The term ‘elec-
25 tronic receipt’ means a receipt that is authorized by

1 the Secretary to be issued or transmitted under this
2 Act in the form of an electronic document.

3 “(6) HOLDER.—The term ‘holder’ means a per-
4 son that has possession in fact or by operation of
5 law of a receipt or any electronic document.

6 “(7) PERSON.—The term ‘person’ means—

7 “(A) a person (as defined in section 1 of
8 title 1, United States Code);

9 “(B) a State; and

10 “(C) a political subdivision of a State.

11 “(8) RECEIPT.—The term ‘receipt’ means a
12 warehouse receipt issued in accordance with this
13 Act, including an electronic receipt.

14 “(9) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Agriculture.

16 “(10) WAREHOUSE.—The term ‘warehouse’
17 means a structure or other approved storage facility,
18 as determined by the Secretary, in which any agri-
19 cultural product may be stored or handled for the
20 purposes of interstate or foreign commerce.

21 “(11) WAREHOUSE OPERATOR.—The term
22 ‘warehouse operator’ means a person that is lawfully
23 engaged in the business of storing or handling agri-
24 cultural products.

1 **“SEC. 3. POWERS OF SECRETARY.**

2 “(a) IN GENERAL.—The Secretary shall have exclu-
3 sive power, jurisdiction, and authority, to the extent that
4 this Act applies, with respect to—

5 “(1) each warehouse operator licensed under
6 this Act;

7 “(2) each person that has obtained an approval
8 to engage in an activity under this Act; and

9 “(3) each person claiming an interest in an ag-
10 ricultural product by means of a document or receipt
11 subject to this Act.

12 “(b) COVERED AGRICULTURAL PRODUCTS.—The
13 Secretary shall specify, after an opportunity for notice and
14 comment, those agricultural products for which a ware-
15 house license may be issued under this Act.

16 “(c) INVESTIGATIONS.—The Secretary may inves-
17 tigate the storing, warehousing, classifying according to
18 grade and otherwise, weighing, and certifying of agricul-
19 tural products.

20 “(d) INSPECTIONS.—The Secretary may inspect or
21 cause to be inspected any person or warehouse licensed
22 under this Act and any warehouse for which a license is
23 applied for under this Act.

24 “(e) SUITABILITY FOR STORAGE.—The Secretary
25 may determine whether a licensed warehouse, or a ware-
26 house for which a license is applied for under this Act,

1 is suitable for the proper storage of the agricultural prod-
2 uct or products stored or proposed for storage in the ware-
3 house.

4 “(f) CLASSIFICATION.—The Secretary may classify a
5 licensed warehouse, or a warehouse for which a license is
6 applied for under this Act, in accordance with the owner-
7 ship, location, surroundings, capacity, conditions, and
8 other qualities of the warehouse and as to the kinds of
9 licenses issued or that may be issued for the warehouse
10 under this Act.

11 “(g) WAREHOUSE OPERATOR’S DUTIES.—Subject to
12 the other provisions of this Act, the Secretary may pre-
13 scribe the duties of a warehouse operator operating a
14 warehouse licensed under this Act with respect to the
15 warehouse operator’s care of and responsibility for agricul-
16 tural products stored or handled by the warehouse oper-
17 ator.

18 “(h) SYSTEMS FOR ELECTRONIC CONVEYANCE.—

19 “(1) REGULATIONS GOVERNING ELECTRONIC
20 SYSTEMS.—Except as provided in paragraph (2), the
21 Secretary may promulgate regulations governing 1
22 or more electronic systems under which electronic
23 receipts may be issued and transferred and other
24 electronic documents relating to the shipment, pay-

1 ment, and financing of the sale of agricultural prod-
2 ucts may be issued or transferred.

3 “(2) LIMITATIONS.—The Secretary shall not
4 have the authority under this Act to establish—

5 “(A) 1 or more central filing systems for
6 the filing of financing statements or the filing
7 of the notice of financing statements; or

8 “(B) rules to determine security interests
9 of persons affected by this Act.

10 “(i) EXAMINATION AND AUDITS.—In addition to the
11 authority provided under subsection (l), on request of the
12 person, State agency, or commodity exchange, the Sec-
13 retary may conduct an examination, audit, or similar ac-
14 tivity with respect to—

15 “(1) any person that is engaged in the business
16 of storing an agricultural product that is subject to
17 this Act;

18 “(2) any State agency that regulates the stor-
19 age of an agricultural product by such a person; or

20 “(3) any commodity exchange with regulatory
21 authority over the storage of agricultural products
22 that are subject to this Act.

23 “(j) LICENSES FOR OPERATION OF WAREHOUSES.—
24 The Secretary may issue to any warehouse operator a li-

1 cense for the operation of a warehouse in accordance with
2 this Act if—

3 “(1) the Secretary determines that the ware-
4 house is suitable for the proper storage of the agri-
5 cultural product or products stored or proposed for
6 storage in the warehouse; and

7 “(2) the warehouse operator agrees, as a condi-
8 tion of the license, to comply with this Act (includ-
9 ing regulations promulgated under this Act).

10 “(k) LICENSING OF OTHER PERSONS.—

11 “(1) IN GENERAL.—On presentation of satisfac-
12 tory proof of competency to carry out the activities
13 described in this paragraph, the Secretary may issue
14 to any person a Federal license—

15 “(A) to inspect any agricultural product
16 stored or handled in a warehouse subject to this
17 Act;

18 “(B) to sample such an agricultural prod-
19 uct;

20 “(C) to classify such an agricultural prod-
21 uct according to condition, grade, or other class
22 and certify the condition, grade, or other class
23 of the agricultural product; or

1 “(D) to weigh such an agricultural product
2 and certify the weight of the agricultural prod-
3 uct.

4 “(2) CONDITION.—As a condition of a license
5 issued under paragraph (1), the licensee shall agree
6 to comply with this Act (including regulations pro-
7 mulgated under this Act).

8 “(1) EXAMINATION OF BOOKS, RECORDS, PAPERS,
9 AND ACCOUNTS.—The Secretary may examine and audit,
10 using designated officers, employees, or agents of the De-
11 partment, all books, records, papers, and accounts relating
12 to activities subject to this Act of—

13 “(1) a warehouse operator operating a ware-
14 house licensed under this Act;

15 “(2) a person operating a system for the elec-
16 tronic recording and transfer of receipts and other
17 documents authorized by the Secretary; or

18 “(3) any other person issuing receipts or elec-
19 tronic documents authorized by the Secretary under
20 this Act.

21 “(m) COOPERATION WITH STATES.—The Secretary
22 may—

23 “(1) cooperate with officers and employees of a
24 State who administer or enforce State laws relating

1 to warehouses, warehouse operators, weighers, grad-
2 ers, inspectors, samplers, or classifiers; and

3 “(2) enter into cooperative agreements with
4 States to perform activities authorized under this
5 Act.

6 **“SEC. 4. IMPOSITION AND COLLECTION OF FEES.**

7 “(a) IN GENERAL.—The Secretary shall assess per-
8 sons covered by this Act fees to cover the costs of admin-
9 istering this Act.

10 “(b) RATES.—The fees under this section shall be set
11 at a rate determined by the Secretary.

12 “(c) TREATMENT OF FEES.—All fees collected under
13 this section shall be credited to the account that incurs
14 the costs of administering this Act and shall be available
15 to the Secretary without further appropriation and with-
16 out fiscal year limitation.

17 “(d) INTEREST.—Funds collected under this section
18 may be deposited in an interest-bearing account with a
19 financial institution, and any interest earned on the ac-
20 count shall be credited under subsection (c).

21 “(e) EFFICIENCIES AND COST EFFECTIVENESS.—

22 “(1) IN GENERAL.—The Secretary shall seek to
23 minimize the fees established under this section by
24 improving efficiencies and reducing costs, including
25 the efficient use of personnel to the extent prac-

“(2) REPORT.—The Secretary shall publish an annual report on the actions taken by the Secretary to comply with paragraph (1).

7 “If standards for the evaluation or determination of
8 the quality or value of an agricultural product are not es-
9 tablished under another Federal law, the Secretary may
10 establish standards for the evaluation or determination of
11 the quality or value of the agricultural product under this
12 Act.

“(a) IN GENERAL.—As a condition of receiving a li-
cense or approval under this Act (including regulations
promulgated under this Act), the person applying for the
license or approval shall execute and file with the Sec-
retary a bond, or provide such other financial assurance
as the Secretary determines appropriate, to secure the per-
son’s performance of the activities so licensed or approved.

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1 assurance in the State, district, or territory in which the
2 warehouse is located.

3 “(c) **ADDITIONAL ASSURANCES.**—If the Secretary de-
4 termines that a previously approved bond or other finan-
5 cial assurance is insufficient, the Secretary may suspend
6 or revoke the license or approval covered by the bond or
7 other financial assurance if the person that filed the bond
8 or other financial assurance does not provide such addi-
9 tional bond or other financial assurance as the Secretary
10 determines appropriate.

11 “(d) **THIRD PARTY ACTIONS.**—Any person injured by
12 the breach of any obligation arising under this Act for
13 which a bond or other financial assurance has been ob-
14 tained as required by this section may sue with respect
15 to the bond or other financial assurance in a district court
16 of the United States to recover the damages that the per-
17 son sustained as a result of the breach.

18 **“SEC. 7. MAINTENANCE OF RECORDS.**

19 “To facilitate the administration of this Act, the fol-
20 lowing persons shall maintain such records and make such
21 reports, as the Secretary may by regulation require:

22 “(1) A warehouse operator that is licensed
23 under this Act.

1 “(2) A person operating a system for the elec-
2 tronic recording and transfer of receipts and other
3 documents that are authorized under this Act.

4 “(3) Any other person engaged in the issuance
5 of electronic receipts or the transfer of documents
6 under this Act.

7 **“SEC. 8. FAIR TREATMENT IN STORAGE OF AGRICULTURAL**
8 **PRODUCTS.**

9 “(a) IN GENERAL.—Subject to the capacity of a
10 warehouse, a warehouse operator shall deal, in a fair and
11 reasonable manner, with persons storing, or seeking to
12 store, an agricultural product in the warehouse if the agri-
13 cultural product—

14 “(1) is of the kind, type, and quality custom-
15 arily stored or handled in the area in which the
16 warehouse is located;

17 “(2) is tendered to the warehouse operator in a
18 suitable condition for warehousing; and

19 “(3) is tendered in a manner that is consistent
20 with the ordinary and usual course of business.

21 “(b) ALLOCATION.—Nothing in this section prohibits
22 a warehouse operator from entering into an agreement
23 with a depositor of an agricultural product to allocate
24 available storage space.

1 **“SEC. 9. COMMINGLING OF AGRICULTURAL PRODUCTS.**

2 “(a) IN GENERAL.—A warehouse operator may com-
3 mingle agricultural products in a manner approved by the
4 Secretary.

5 “(b) LIABILITY.—A warehouse operator shall be sev-
6 erally liable to each depositor or holder for the care and
7 redelivery of the share of the depositor and holder of the
8 commingled agricultural product to the same extent and
9 under the same circumstances as if the agricultural prod-
10 ucts had been stored separately.

11 **“SEC. 10. TRANSFER OF STORED AGRICULTURAL PROD-**
12 **UCTS.**

13 “(a) IN GENERAL.—In accordance with regulations
14 promulgated under this Act, a warehouse operator may
15 transfer a stored agricultural product from 1 warehouse
16 to another warehouse for continued storage.

17 “(b) CONTINUED DUTY.—The warehouse operator
18 from which agricultural products have been transferred
19 under subsection (a) shall deliver to the rightful owner of
20 such products, on request at the original warehouse, such
21 products in the quantity and of the kind, quality, and
22 grade called for by the receipt or other evidence of storage
23 of the owner.

24 **“SEC. 11. WAREHOUSE RECEIPTS.**

25 “(a) IN GENERAL.—At the request of the depositor
26 of an agricultural product stored or handled in a ware-

1 house licensed under this Act, the warehouse operator
2 shall issue a receipt to the depositor as prescribed by the
3 Secretary.

4 “(b) ACTUAL STORAGE REQUIRED.—A receipt may
5 not be issued under this section for an agricultural prod-
6 uct unless the agricultural product is actually stored in
7 the warehouse at the time of the issuance of the receipt.

8 “(c) CONTENTS.—Each receipt issued for an agricul-
9 tural product stored or handled in a warehouse licensed
10 under this Act shall contain such information, for each
11 agricultural product covered by the receipt, as the Sec-
12 retary may require by regulation.

13 “(d) PROHIBITION ON ADDITIONAL RECEIPTS OR
14 OTHER DOCUMENTS.—

15 “(1) RECEIPTS.—While a receipt issued under
16 this Act is outstanding and uncanceled by the ware-
17 house operator, an additional receipt may not be
18 issued for the same agricultural product (or any por-
19 tion of the same agricultural product) represented
20 by the outstanding receipt, except as authorized by
21 the Secretary.

22 “(2) OTHER DOCUMENTS.—If a document is
23 transferred under this section, no duplicate docu-
24 ment in any form may be transferred by any person
25 with respect to the same agricultural product rep-

1 resented by the document, except as authorized by
2 the Secretary.

3 “(e) ELECTRONIC RECEIPTS AND ELECTRONIC DOC-
4 UMENTS.—Except as provided in section 3(h)(2), notwith-
5 standing any other provision of Federal or State law:

6 “(1) IN GENERAL.—The Secretary may promul-
7 gate regulations that authorize the issuance, record-
8 ing, and transfer of electronic receipts, and the
9 transfer of other electronic documents, in accordance
10 with this subsection.

11 “(2) ELECTRONIC RECEIPT OR ELECTRONIC
12 DOCUMENT SYSTEMS.—Electronic receipts may be
13 issued, recorded, and transferred, and electronic doc-
14 uments may be transferred, under this subsection
15 with respect to an agricultural product under, a sys-
16 tem or systems maintained in 1 or more locations
17 and approved by the Secretary in accordance with
18 regulations issued under this Act.

19 “(3) TREATMENT OF HOLDER.—Any person
20 designated as the holder of an electronic receipt or
21 other electronic document issued or transferred
22 under this Act shall, for the purpose of perfecting
23 the security interest of the person under Federal or
24 State law and for all other purposes, be considered

1 to be in possession of the receipt or other electronic
2 document.

3 “(4) NONDISCRIMINATION.—An electronic re-
4 ceipt issued, or other electronic document trans-
5 ferred, in accordance with this Act shall not be de-
6 nied legal effect, validity, or enforceability on the
7 ground that the information is generated, sent, re-
8 ceived, or stored by electronic or similar means.

9 “(5) SECURITY INTERESTS.—If more than 1 se-
10 curity interest exists in the agricultural product that
11 is the subject of an electronic receipt or other elec-
12 tronic document under this Act, the priority of the
13 security interest shall be determined by the applica-
14 ble Federal or State law.

15 “(6) NO ELECTRONIC RECEIPT REQUIRED.—A
16 person shall not be required to issue in electronic
17 form a receipt or document with respect to an agri-
18 cultural product.

19 “(7) OPTION FOR NON-FEDERALLY LICENSED
20 WAREHOUSE OPERATORS.—Notwithstanding any
21 other provision of this Act, a warehouse operator not
22 licensed under this Act may, at the option of the
23 warehouse operator and in accordance with regula-
24 tions established by the Secretary, issue electronic

1 receipts and transfer other electronic documents in
2 accordance with this Act.

3 “(8) APPLICATION TO STATE-LICENSED WARE-
4 HOUSE OPERATORS.—This subsection shall not
5 apply to a warehouse operator that is licensed under
6 State law to store agricultural commodities in a
7 warehouse in the State if the warehouse operator
8 elects—

9 “(A) not to issue electronic receipts au-
10 thorized under this subsection; or

11 “(B) to issue electronic receipts authorized
12 under State law.

13 **“SEC. 12. CONDITIONS FOR DELIVERY OF AGRICULTURAL**
14 **PRODUCTS.**

15 “(a) PROMPT DELIVERY.—In the absence of a lawful
16 excuse, a warehouse operator shall, without unnecessary
17 delay, deliver the agricultural product stored or handled
18 in the warehouse on a demand made by—

19 “(1) the holder of the receipt for the agricul-
20 tural product; or

21 “(2) the person that deposited the product, if
22 no receipt has been issued.

23 “(b) PAYMENT TO ACCOMPANY DEMAND.—Prior to
24 delivery of the agricultural product, payment of the ac-
25 crued charges associated with the storage of the agricul-

1 tural product, including satisfaction of the
 2 warehouseman's lien, shall be made if requested by the
 3 warehouse operator.

4 “(c) SURRENDER OF RECEIPT.—When the holder of
 5 a receipt requests delivery of an agricultural product cov-
 6 ered by the receipt, the holder shall surrender the receipt
 7 to the warehouse operator, in the manner prescribed by
 8 the Secretary, to obtain the agricultural product.

9 “(d) CANCELLATION OF RECEIPT.—A warehouse op-
 10 erator shall cancel each receipt returned to the warehouse
 11 operator upon the delivery of the agricultural product for
 12 which the receipt was issued.

13 **“SEC. 13. SUSPENSION OR REVOCATION OF LICENSES.**

14 “(a) IN GENERAL.—After providing notice and an
 15 opportunity for a hearing in accordance with this section,
 16 the Secretary may suspend or revoke any license issued,
 17 or approval for an activity provided, under this Act—

18 “(1) for a material violation of, or failure to
 19 comply, with any provision of this Act (including
 20 regulations promulgated under this Act); or

21 “(2) on the ground that unreasonable or exorbi-
 22 tant charges have been imposed for services ren-
 23 dered.

24 “(b) TEMPORARY SUSPENSION.—The Secretary may
 25 temporarily suspend a license or approval for an activity

1 under this Act prior to an opportunity for a hearing for
2 any violation of, or failure to comply with, any provision
3 of this Act (including regulations promulgated under this
4 Act).

5 “(c) **AUTHORITY TO CONDUCT HEARINGS.**—The
6 agency within the Department that is responsible for ad-
7 ministering regulations promulgated under this Act shall
8 have exclusive authority to conduct any hearing required
9 under this section.

10 “(d) **JUDICIAL REVIEW.**—

11 “(1) **JURISDICTION.**—A final administrative de-
12 termination issued subsequent to a hearing may be
13 reviewable only in a district court of the United
14 States.

15 “(2) **PROCEDURE.**—The review shall be con-
16 ducted in accordance with the standards set forth in
17 section 706(2) of title 5, United States Code.

18 **“SEC. 14. PUBLIC INFORMATION.**

19 “(a) **IN GENERAL.**—The Secretary may release to the
20 public the names, addresses, and locations of all persons—

21 “(1) that have been licensed under this Act or
22 that have been approved to engage in an activity
23 under this Act; and

24 “(2) with respect to which a license or approval
25 has been suspended or revoked under section 13, the

1 results of any investigation made or hearing con-
2 ducted under this Act, including the reasons for the
3 suspension or revocation.

4 “(b) CONFIDENTIALITY.—Except as otherwise pro-
5 vided by law, an officer, employee, or agent of the Depart-
6 ment shall not divulge confidential business information
7 obtained during a warehouse examination or other func-
8 tion performed as part of the duties of the officer, em-
9 ployee, or agent under this Act.

10 **“SEC. 15. PENALTIES FOR NONCOMPLIANCE.**

11 “If a person fails to comply with any requirement of
12 this Act (including regulations promulgated under this
13 Act), the Secretary may assess, on the record after an op-
14 portunity for a hearing, a civil penalty—

15 “(1) of not more than \$25,000 per violation, if
16 an agricultural product is not involved in the viola-
17 tion; or

18 “(2) of not more than 100 percent of the value
19 of the agricultural product, if an agricultural prod-
20 uct is involved in the violation.

21 **“SEC. 16. JURISDICTION AND ARBITRATION.**

22 “(a) FEDERAL JURISDICTION.—A district court of
23 the United States shall have exclusive jurisdiction over any
24 action brought under this Act without regard to the
25 amount in controversy or the citizenship of the parties.

1 “(b) ARBITRATION.—Nothing in this Act prevents
2 the enforceability of an agreement to arbitrate that would
3 otherwise be enforceable under chapter 1 of title 9, United
4 States Code.

5 **“SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

6 “There are authorized to be appropriated such sums
7 as are necessary to carry out this Act.”.

8 **SEC. 3. REGULATIONS.**

9 (a) PROPOSED REGULATIONS.—Not later than 90
10 days after the date of enactment of this Act, the Secretary
11 of Agriculture shall publish in the Federal Register pro-
12 posed regulations for carrying out the amendment made
13 by section 2.

14 (b) FINAL REGULATIONS.—Not later than 180 days
15 after the date of enactment of this Act, the Secretary shall
16 promulgate final regulations for carrying out the amend-
17 ment made by section 2.

18 (c) EFFECTIVENESS OF EXISTING ACT.—The United
19 States Warehouse Act (7 U.S.C. 241 et seq.), as it existed
20 before the amendment made by section 2, shall be effective
21 until the earlier of—

22 (1) the date on which final regulations are pro-
23 mulgated under subsection (b); or

24 (2) August 1, 2001.

○